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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,589	03/02/2004	Glenn Klecker	DBH:0756.0840	3452
152 7590 01/29/2007 CHERNOFF, VILHAUER, MCCLUNG & STENZEL 1600 ODS TOWER 601 SW SECOND AVENUE PORTLAND, OR 97204-3157			EXAMINER HAMILTON, ISAAC N	
			ART UNIT 3724	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/29/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/791,589	KLECKER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Isaac N. Hamilton	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 October 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2-11 and 15-33 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 28-33 is/are withdrawn from consideration.
- 5) Claim(s) 2-8, 11 and 15-19 is/are allowed.
- 6) Claim(s) 10 and 20-27 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>08/22/05, 10/31/05</u> .	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Species I, claims 2-8, 10, 11 and 15-27 in the reply filed on 10/23/06 is acknowledged.

Applicant's election of Species I in the reply filed on 10/23/06 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

***Information Disclosure Statement***

2. Although the IDS's filed on 08/22/05 and 10/31/05 were considered before the mailing of the Office letter on 11/10/05, there is currently no signed and initialed copy of the IDS's on file in the Office's system. Therefore, a newly signed and initialed copy of the IDS's filed on 08/22/05 and 10/31/05 are attached.

***Claim Rejections - 35 USC § 112***

3. The rejections made under 35 USC 112 are hereby withdrawn.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berg et al (5,745,997), hereafter Berg, in view of Mizutani et al (2002/0124415A1), hereafter Mizutani,

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and Rose et al (5,621,974), hereafter Rose. Berg discloses everything as noted in Diagram 1 below, and discloses a spring that urges the jaw and the blade assembly to pivot apart from each other about the pivot joint as recited in columns 5 through 6, lines 63 through 7, respectively. Berg does not disclose a cavity surrounding the blade pivot joint, a groove extending away from the cavity, a spring located within the cavity, the spring having a pair of opposite ends extending from the cavity to the second handle pivot joint and engaged with the tang of the blade carrier. However, Mizutani teaches cavity 5, 6 surrounding the blade pivot joint 17, a groove 11, 12 extending away from the cavity, a spring 13 located within the cavity, the spring having a pair of opposite ends 16 extending from the cavity to the second handle pivot joint and engaged with the tang 7, 8 of the blade carrier. It would have been obvious to provide a cavity surrounding the blade pivot joint, a groove extending away from the cavity, a spring located within the cavity, the spring having a pair of opposite ends extending from the cavity to the second handle pivot joint and engaged with the tang of the blade carrier in Berg as taught by Mizutani in order to enclose the mechanism that urges the jaw and blade assembly to pivot apart from each other and protect it from dust and debris.

Berg also does not disclose a removably mounted, sharpened cutter on the blade carrier. However, Rose teaches a removably mounted, sharpened cutter 20. It would have been obvious to provide a removably mounted, sharpened cutter in Berg as taught by James in order to change the sharpened cutter depending on the type of material that is being cut.

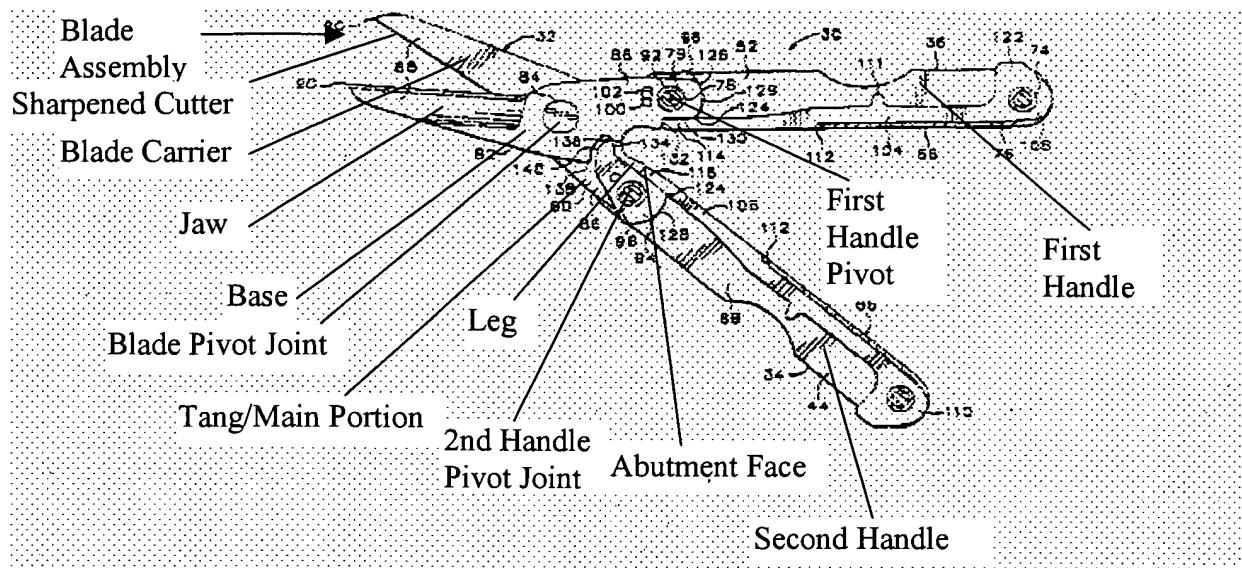


Diagram 1. Figure 9 of Berg is shown above in the extended, operative position.

6. Claims 20, 21 and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berg in view of Eklind (6,151,999). Berg discloses everything as noted above in Diagram 1, and discloses channels 44, 52; side walls 68; base 66, 106. Berg does not disclose cushioning portions of elastomeric material overmolded onto the side walls covering at least part of a respective margin of each of the side walls, and does not disclose a shell layer of a rigid plastics material. However, Eklind teaches cushioning portions 46 of elastomeric material overmolded onto the side walls covering at least part of a respective margin of each of the side walls as shown in figures 5 and 8 and recited in columns 2 through 3, lines 53-3, respectively; and teaches shell layer 12 of a rigid plastics material in column 2, line 29. It would have been obvious to provide cushioning portions of elastomeric material overmolded onto the side walls covering at least part of a respective margin of each of the side walls in Berg as taught by Eklind in order to provide a comfortable gripping surface for the hand of the user. Moreover, it would

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have been obvious to provide a shell layer of a rigid plastics material in order to provide a layer of material between the metal of Berg and the elastomeric material that is compatible with the texture of both materials. Note that the base and side walls of Berg are combined with the teachings of Eklind by replacing the elements 50 and 54 in figure 3 of Eklind with the base and side walls of Berg. This configuration of the combination thus provides the shell layer extending along the base and both side walls; the shell layer extends along the elongate margin of the side walls; the cushioning portion extends along the outer margin of the shell layer; and the cushioning portion covers a portion of an outer face of the shell layer and a portion of an outer margin of the shell layer.

7. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berg in view of Mizutani. Berg discloses everything as noted in Diagram 1 below, and discloses a spring that urges the jaw and the blade assembly to pivot apart from each other about the pivot joint as recited in columns 5 through 6, lines 63 through 7, respectively. Berg does not disclose a cavity surrounding the blade pivot joint, a groove extending away from the cavity, a spring located within the cavity, the spring having a pair of opposite ends extending from the cavity to the second handle pivot joint and engaged with the tang of the blade carrier. However, Mizutani teaches cavity 5, 6 surrounding the blade pivot joint 17, a groove 11, 12 extending away from the cavity, a spring 13 located within the cavity, the spring having a pair of opposite ends 16 extending from the cavity to the second handle pivot joint and engaged with the tang 7, 8 of the blade carrier. It would have been obvious to provide a cavity surrounding the blade pivot joint, a groove extending away from the cavity, a spring located within the cavity, the spring having a pair of opposite ends extending from the cavity to the second handle pivot joint and engaged

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with the tang of the blade carrier in Berg as taught by Mizutani in order to enclose the mechanism that urges the jaw and blade assembly to pivot apart from each other and protect it from dust and debris.

***Allowable Subject Matter***

8. Claims 2-8, 11 and 15-19 are allowed. The claims define a cutting tool subassembly for a folding hand tool that has two handles which fold about pivot points, wherein one handle is attached to a blade assembly. The blade assembly includes a blade carrier having a tang and a sharpened cutter, wherein a leg extends laterally from a main portion of the tang and engages against and in contact with an abutment face of the handle when the handle is in an extended position.

Berg (5,745,997) teaches a cutting tool assembly for a folding hand tool that has two handles which fold about pivot point, wherein one handle is attached to a blade assembly. Berg also teaches that the blade assembly includes a blade carrier having a tang and a sharpened cutter, and teaches a leg extending from a main portion of the tang and engaging against and in contact with an abutment face of the handle when the handle is in an extended position. However, Berg does not teach that the main portion of the tang has a leg that extends laterally from the main portion, and therefore it would not have been obvious to combine the references with other prior art teachings in order to meet the claim limitations.

***Response to Arguments***

Applicant's arguments with respect to claims 10 and 22 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments, see page 10 and 11, filed 10/23/06, with respect to the limitation of "a leg extending laterally from the main portion" have been fully considered and are persuasive. The rejection of claims 2-8, 11 and 15-19 have been withdrawn.

Applicant's arguments, see the paragraph extending from page 14-15, filed 10/23/06, with respect to the rejection(s) of claim(s) 20, 21 and 23-27 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Berg and Eklind.

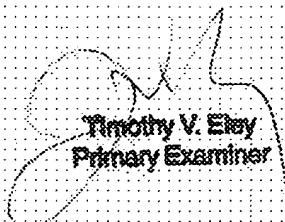
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 571-272-4509. The examiner can normally be reached on Monday through Friday between 8am and 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MT

JH  
January 22, 2007



Timothy V. Eley  
Primary Examiner